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Report of the Independent Expert on capacity-building and technical cooperation with Côte d'Ivoire in the field of human rights

Note by the Secretariat

The Secretariat hereby has the honour to transmit the report of the Independent Expert on capacity-building and technical cooperation with Côte d'Ivoire in the field of human rights, Mohammed Ayat, to the Human Rights Council. This report is the outcome of the Independent Expert's third visit to Côte d'Ivoire, which took place from 2 to 12 November 2015, and covers the period from 1 September to 31 December 2015.

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Summary

This report is the outcome of the Independent Expert's third visit to Côte d'Ivoire, which took place from 2 to 12 November 2015, and covers the period from 1 September to 31 December 2015. The Independent Expert is pleased to highlight the fact that presidential elections were held peacefully on 25 October 2015. A majority of the national and international observers who were present agreed that the elections had conformed to international standards. The Independent Expert applauds the sound judgement displayed by the political community of Côte d'Ivoire and encourages its members to proceed along its chosen path with a view to consolidating the peace and maintaining the ground that has been gained in terms of economic and human development.

The Independent Expert notes with satisfaction that, in his inaugural address of 4 November 2015, the President of Côte d'Ivoire identified national reconciliation as a priority for his second term in office. Reconciliation necessarily entails ensuring that justice is served, and the Independent Expert wishes once again to encourage the Ivorian authorities to continue their efforts to ensure that the crimes committed in the past do not go unpunished. A greater degree of balance is now being achieved in terms of the legal action being taken against the two camps that took part in the violence that broke out following the 2010 and 2011 elections. The findings of the National Commission of Inquiry are now being drawn upon with a view to striking that necessary balance in the interests of justice and reconciliation.

The investigations currently under way have been hampered by the difficulties encountered by the teams in charge of exhuming the remains of victims of the crisis that erupted in the wake of the elections in the western part of the country. These problems have blocked the progress of the investigation into reports of numerous bodies having been thrown into wells in Nahibly and the work being done to uncover a number of mass graves; in addition, exhumations have not yet begun in the south-western region of the country. In order to respect the traditions and sensibilities of the population, a great deal of tact is called for in dealing with these cases. In addition, in some instances, exhumations have been hampered by a lack of logistical support.

The Independent Expert emphasizes the need to tackle these problems without delay while, at the same time, strictly upholding due process guarantees. The right of defendants and other accused persons to stand trial within a reasonable time is a pivotal component of those guarantees. The Independent Expert welcomes the praiseworthy efforts of the Ivorian authorities to build the capacity of the justice system by constructing and renovating courthouses, developing plans for the construction and renovation of places of detention and providing training to judges and other judicial personnel.

The Independent Expert applauds the Government's efforts to provide compensation to victims of serious human rights violations and underscores the importance of expediting the identification of victims, clarifying the eligibility criteria and providing victims with swift access to redress. In order to respond to victims' legitimate expectations, coordination between the National Commission on Reconciliation and Compensation for Victims and the National Programme for Social

Cohesion must be improved.

The Independent Expert draws attention to the worrisome conditions existing in Ivorian prisons and highlights the efforts deployed by the Ivorian authorities to renovate existing prisons and build new ones. These construction projects should be aligned with international standards regarding the detention of minors. It is regrettable that, in most of the country's prisons, minors subject to a provisional custody order are not held separately from adults. The Ivorian authorities are aware that prison conditions are poor, and their willingness to rectify this situation with all due haste deserves the firm support of the international community.

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I. Introduction

1. This report is submitted pursuant to resolution 29/24 of the Human Rights Council of 3 July 2015, whereby the Council decided to extend the mandate on capacity-building and technical cooperation with Côte d'Ivoire in the field of human rights for a period of one year and requested the Independent Expert to submit a report to the Human Rights Council at its thirty-first session and his final recommendations at its thirty-second session.

2. The present report is the outcome of the Independent Expert's third visit to Côte d'Ivoire, which took place from 2 to 12 November 2015, and covers the period from 1 September to 31 December 2015. During this mission the Independent Expert met with a number of senior officials of Côte d'Ivoire and with both national and international stakeholders. He also held meetings with the Prime Minister and other members of the Government, including the Minister of Justice, the Minister of Human Rights and Civil Liberties, the Minister of the Interior and Security, and the Minister of Solidarity, the Family, and Women's and Children's Affairs.

3. The Independent Expert also met with officials in various strategic areas, including the Independent Electoral Commission, the National Commission on Reconciliation and Compensation for Victims, the National Programme for Social Cohesion and the Unit for Coordination, Follow-up and Reintegration. The Independent Expert also met with senior justice officials, including the Prosecutor-General of the Supreme Court, the Prosecutor-General of the Court of Appeals of Abidjan and the Public Prosecutor of the Court of First Instance of Abidjan, who is also in charge of the Special Investigation Unit.

4. The Independent Expert talked with representatives of political parties and civil society institutions, including non-governmental human rights organizations and victims associations. He met with the General Staff of the Armed Forces and with members of the diplomatic corps and with officials from various United Nations agencies. He also had the opportunity to participate in a workshop on mediation and human rights organized by the Ombudsman. On this occasion, as in the past, he was able to visit several places of detention.

5. The Independent Expert sought to gather information about the way that the human rights situation in Côte d'Ivoire has evolved, which allowed him to continue to develop recommendations concerning ways of improving the situation. Another of his objectives was to continue his discussions with the Ivorian authorities regarding what they need in order to build capacity in this respect.

6. The Independent Expert wishes to express his gratitude to the Ivorian authorities for having invited him to their country and for their candid and sincere cooperation. He also wishes to thank all the persons with whom he met in order to gather information and discuss issues relating to his mission. He is very grateful to the officials of the United Nations Operation in Côte d'Ivoire (UNOCI) and the staff of the Human Rights Division of UNOCI for the extremely valuable support which they provided during his visit.

II. Political background

A. A major political event: peaceful elections held in accordance with international standards

7. At the outset of this report, the Independent Expert wishes to highlight the presidential elections that were held in Côte d'Ivoire on 25 October 2015. A majority of the national and international observers who were present agreed that the elections conformed to international standards. Given the configuration of the political landscape and the political coalitions that have taken shape fairly recently, a single round of elections was held. The incumbent, President Alassane Dramane Ouattara, was re-elected with 83.6 per cent of the votes, with Pascal Affi N'Guessan obtaining 9.3 per cent of the votes and Kouadio Konan Bertin 3.9 per cent.

8. In recent times, many elections have been followed by violent protests, but on this occasion the losing candidates all accepted the results and congratulated the President on his re-election. This commendable attitude opens up bright prospects for a pluralistic dialogue and a cooperative approach on the part of Ivorian politicians. The Independent Expert applauds the sound judgement displayed by the political community of Côte d'Ivoire and encourages its members to proceed along its chosen path with a view to consolidating the peace and maintaining the ground that has been gained in terms of economic and human development.

9. The fact that presidential elections were held peacefully and in accordance with international standards is a major achievement that stands in sharp contrast to this country's recent troubled past. The Independent Expert wishes to highlight this very welcome event, which is a stellar achievement shared by all Ivorians, without exception. They should be rightfully proud of what they have accomplished. He also wishes to underscore the crucial institutional role played by the Independent Electoral Commission in ensuring that the election could proceed smoothly in an atmosphere of calm.

B. Independent Electoral Commission

1. Status and purpose

10. The Independent Electoral Commission is a standing body established under the Constitution (art. 32, para. 4) and is responsible for ensuring that elections are transparent and held in a lawful manner. It represents an important institutional development, inasmuch as, in the past, elections were organized and supervised solely by the Ministry of the Interior. In conjunction with his review of the presidential elections of 25 October 2015, the Independent Expert is also exploring the outlook for the elections that are to be organized in the near or medium term by the Independent Electoral Commission.

2. Successful organization of presidential elections

11. The Independent Expert notes that the dialogue held between the Government and political parties in the run-up to the recent presidential elections made it possible to ensure a relatively good balance in terms of the representation of the various political stakeholders and the inclusion of a significant portion of the opposition. The Independent Electoral Commission made a sustained effort to meet the challenges that arose in that regard. It updated the electoral rolls and took part in developing the security operations plan to be put into effect during the elections. As part of that plan,

28,000 members of Ivorian security forces (the police, gendarmerie and army) were deployed throughout the country. Their mission was to head off any trouble or violence and to ensure that citizens would feel safe and could confidently go to the polls undisturbed. In addition, all the candidates were provided with comparable security details.

12. During the official election campaign, which ran from 9 to 23 October 2015, the Independent Electoral Commission made sure that all the candidates had equal access to government media (Ivorian television and the daily newspaper, *Fraternité matin*). Before the elections, the Independent Electoral Commission had met with each candidate, had taken note of his or her comments and of any grievances and had made an effort to ensure that they were taken into consideration. All the candidates were entitled to have two representatives at the polling stations and were able to avail themselves of that right without hindrance. National and international observers were present during the voting. Electronic biometric tablets were used to check voters' identities and so avoid voter fraud. Unfortunately, this system did not work well at some polling stations since, on election day, some polling officers were unable to use these electronic tablets properly, even though they had been instructed in their use during training sessions organized for that purpose. In these relatively rare cases, manual identification systems had to be used instead.

13. Polling officers stationed in more remote areas of the country brought the voting records back and validated the results. It is highly significant that the unsuccessful candidates did not contest the results and that they all attended the President's inauguration. The Independent Electoral Commission is to be credited with the organizational work involved in this achievement (without, of course, forgetting the role of all its various partners). This standing body will be called upon to organize numerous other elections to be held in the future.

3. Forthcoming elections

14. The democratic process will continue with other (legislative, regional and municipal) elections. The Independent Electoral Commission is committed to organizing them all successfully in accordance with national and international standards for the good of all Ivorians. However, organizing these elections may be just as complicated, or even more so, than the presidential elections were. The Commission should therefore begin its preparations now while exercising the utmost vigilance in this respect. Its personnel are in need of ongoing training, and the people who will be asked to operate the electronic tablets, if they are to be used in future elections, will require further instruction. More generally, training should be more carefully tailored to the established objectives and should be provided with sufficient lead time.

4. Lessons to be learned

15. The Independent Electoral Commission should seek to learn all the lessons it can from the recent presidential elections. It would be highly instructive, for example, to examine the voter turnouts in each region, classify them, compare them, analyse them and use this as a basis for drawing conclusions and developing useful recommendations for the future. It is important to determine, for example, why voter turnout was lower in certain regions of the country, to what extent each presidential candidate was able or unable to mount a campaign with nationwide coverage and why, and how to rebuild the electorate's trust in the electoral process and in politicians. These are not idle questions. The answers to them and the social and political adjustments which they indicate are needed could greatly improve the way in which the current national reconciliation process is being handled and could strengthen the

rule of law and the democratic process, to the benefit of all Ivorians. This fundamental exploratory work should be undertaken in close cooperation with other national bodies such as the National Programme for Social Cohesion and the National Commission on Reconciliation and Compensation for Victims.

III. National reconciliation: progress and challenges

A. Combating impunity through the justice system

1. National reconciliation: a priority identified by the Head of State

16. The Independent Expert is pleased to note that, in his inaugural address on 4 November 2015, the President of Côte d'Ivoire reiterated his firm commitment to continue working to further the reconciliation process. This was, in fact, the first priority that he identified during his address.

2. Recent progress of the reconciliation process

17. A number of advances in this connection should be mentioned. The first has to do with the work being done by the judicial branch to combat impunity. The second relates to the area of transitional justice, which falls directly and indirectly under the responsibility of the National Commission on Reconciliation and Compensation for Victims and the National Programme for Social Cohesion.

3. Combating impunity through the justice system

18. The justice system continues to make progress in its effort to combat impunity. In 2014, the assize courts, which had not been in operation for more than a decade, were opened again. Since then they have tried a number of cases, including one in which 83 persons, including Simone Gbagbo, were charged with having committed acts of violence following the elections in 2011. Her application for judicial review is now before the Court of Cassation. The 83 defendants in this case were all members of the former regime.

19. Since the Independent Expert's second visit, in May 2015, members of the Forces Nouvelles, who had joined the Forces Républicaines de Côte d'Ivoire, have been prosecuted or are in the process of being brought to trial. The courts are therefore making headway in their efforts to strike a greater balance in terms of the prosecution of members of the two camps who took part in post-election violence in 2010 and 2011. The findings of the National Commission of Inquiry are now being drawn upon with a view to achieving that necessary balance in the interests of justice and reconciliation.

B. Challenges

20. A number of difficulties have slowed the progress of some of the investigations now being conducted. It is true, nonetheless, that, with the help of the international community, the exhumations required in order to gather the necessary evidence have been completed in a number of locations (such as Toulepleu, Bloléquin, Guiglo and the whole of southern Abidjan). In those cases it is important to take the necessary steps to preserve and make use of this evidence and to return the victims' remains to their families as swiftly as possible so that they can give their loved ones proper burials and achieve some type of closure.

21. In certain locations, however, the population continues to oppose the exhumations for cultural reasons and, in some instances, as a way of expressing open or covert political dissent. Difficulties of this type have been experienced in Duékoué, in the western part of the country. This has blocked the progress of the investigation in Nahibly into reports of numerous bodies having been thrown into wells and has hindered efforts to uncover mass graves. Furthermore, exhumation work has not yet begun in the south-western region. In order to respect the traditions and sensibilities of the population, a great deal of tact is called for in dealing with these cases. In addition, in some instances, exhumations have been hampered by a lack of logistical support. This problem could be quickly remedied with the proper technical assistance.

22. While legal action is focusing on the crisis that broke out following the 2010 and 2011 elections, the fact remains that other serious human rights violations were committed during earlier crises, as detailed by various investigative committees of the United Nations. The perpetrators of these crimes should not be allowed to go unpunished either.

23. It is important for these problems to be tackled soon while, at the same time, strictly upholding due process guarantees. The right of defendants and other accused persons to stand trial within a reasonable time is a pivotal component of those guarantees. The commendable efforts of the Ivorian authorities to build the capacity of the justice system by constructing and renovating courthouses, developing plans for the construction and renovation of places of detention and providing training to judges and other judicial personnel should be pursued and supported more actively by the international community.

C. Combating sexual violence

24. UNOCI monitors the human rights situation throughout Côte d'Ivoire on an ongoing basis and reports any human rights violations that are thought to have been committed by members of the army. Military authorities assured the Independent Expert that they systematically follow up on these reports, although it is sometimes very difficult to find the guilty parties.

25. Between June and October 2015, members of the Forces Républicaines de Côte d'Ivoire, working in cooperation with the Human Rights Division of UNOCI, organized three large workshops on combating sexual violence against women. One of the recommendations that came out of those workshops was that standards relating to the effort to combat impunity for acts of sexual violence committed in connection with armed conflicts should be included in the code of ethics for the armed forces that is currently being drawn up. This recommendation has already been submitted to the Minister of Defence. The army has also started to create a database on acts of sexual violence committed by military personnel, but this praiseworthy initiative requires material support if it is to be completed.

26. In the meantime, 30 focal points have been stationed in the various regions of the country and given the responsibility of reporting cases of gender-based violence. These focal points work with UNOCI field representatives and periodically organize activities to raise the awareness of members of the Forces Républicaines de Côte d'Ivoire about the need to prevent gender-based violence.

27. Côte d'Ivoire was delisted from the annex to the report of the Secretary-General on children and armed conflict in 2007 (see A/69/926-S/2015/409, para. 57). This marks a significant advance in the area of children's rights. If Côte d'Ivoire succeeds in launching a more forceful policy for the elimination of sexual violence, it may legitimately aspire to a time when no group in the country figures on the list of parties

that are credibly suspected of committing or being responsible for patterns of rape and other forms of sexual violence in situations of armed conflict on the Security Council agenda (see A/66/657-S/2012/33, annex). It is to be recalled that, in his report entitled "The future of United Nations peace operations: implementation of the recommendations of the High-level Independent Panel on Peace Operations", the Secretary-General established that "States parties repeatedly listed in my annual reports on children and armed conflict and on conflict-related sexual violence will henceforth not be accepted for participation in United Nations peace operations" (see A/70/357-S/2015/682, para. 127).

D. Activities of the National Commission on Reconciliation and Compensation for Victims

28. The National Commission on Reconciliation and Compensation for Victims is responsible for drawing up a consolidated, definitive list of victims of the post-elections crisis and for deliberating on possible forms of redress. It has also been charged with developing recommendations for presentation to the President of Côte d'Ivoire. The Commission is now in the process of preparing that consolidated list. The initial deadline for entering names on the list of victims was 30 June 2015, but it has been extended twice since then. The latest deadline was set at 10 December 2015. The Commission reports that 71,746 cases have been registered and validated.[1] Difficulties have been encountered in arriving at a precise, operational definition of redress that can be incorporated into a legal instrument. With a view to developing such a definition, the Commission has wisely chosen to look for inspiration from the experiences with transitional justice of other countries such as South Africa and Morocco.

29. On 4 August 2015, two months before the start of the official election campaign and prior to the consolidation of a definitive list of victims, the President decided to commence the compensation process for 4,500 people who fall into one of two categories: people who lost relatives and people who have personally suffered harm and are in need of treatment and follow-up care. People who have lost a loved one (3,500 persons) receive 1 million CFA francs (CFAF), while those in need of medical care (1,000 persons) will be provided with such care free of charge together with CFAF 150,000 to cover their transportation costs.

30. The objective of this and other operations of the sort is to show victims that the Government is committed to fulfilling its promises regarding redress. These initiatives need to be aligned, however, with the efforts of the National Commission on Reconciliation and Compensation for Victims to develop a definition of what constitutes a victim and of what constitutes redress and to determine how the latter is to be provided. In some quarters people are asking whether the CFAF 1 million payment to people who have lost a loved one is, given the severity of the harm suffered, an advance against a larger payment or if it is instead more of a symbolic sum to be paid in view of the large number of people to be compensated and the limited funds available. Arguments can be advanced to justify either one of these approaches.

31. In order to forestall arousing the kind of frustration that could undermine the national reconciliation process, a sustained effort to explain the reason for the chosen approach, along with its objectives and limitations, is called for. The authorities should lend a compassionate ear to victims concerning their expectations regarding the

[1] The Dialogue, Truth and Reconciliation Commission interviewed 72,483 persons, of whom 28,064 were women and 757 were children, but other departments, such as the Ministry of Solidarity, the Family, and Women's and Children's Affairs and the Ministry of Health, have lists of their own.

redress to be provided for the harm that they have suffered, but they should also, at the same time, avoid nurturing expectations that will be impossible to meet.

32. It should be noted that the report of the Dialogue, Truth and Reconciliation Commission has not yet been made public, and it is strongly recommended that this situation be rectified. This recommendation was set out in the Independent Expert's preceding report (see A/HRC/29/49, para. 80) and also figures in Security Council resolution 2226 (2015). The contents of the Dialogue, Truth and Reconciliation Commission's report rightfully belong to the victims and to all Ivorians, since they have the right to be informed of the nature and extent of the abuses committed during the post-election crisis. Although there may be a few legitimate exceptions, victims generally need and want their grievances to be recognized publicly and the abuses to which they were subject to be denounced as such. Making the report public would also presumably have a cathartic effect on the direct and indirect victims of the post-election violence.

E. The National Programme for Social Cohesion

1. Awareness of the importance of peaceful dialogue

33. The National Programme for Social Cohesion has worked to raise awareness of the importance of maintaining a dialogue among the different sectors of Ivorian society. In the run-up to the presidential elections, it organized targeted awareness campaigns to get the message across that the elections were not a war but rather a good opportunity for citizens to exercise their right to choose their leaders and that this could and should be done in a peaceful setting marked by respect for the opinions of others.

2. Adoption of a national strategy for achieving reconciliation and social cohesion

34. An overall national strategy for achieving reconciliation and social cohesion was designed and then validated on 3 October 2015 following consultations with the different sectors of the Ivorian population organized with support from UNOCI. This national strategy is now awaiting approval by the country's authorities and its subsequent adoption. The results of the consultation process attest to Ivorians' desire to have a more equitable justice system and their support for the promotion of social and economic rights. The intent is for this national strategy to reflect their concerns accurately. The strategy provides for the restoration of social cohesion through the promotion of a number of cardinal values in such areas as good governance and the introduction of a policy for the advancement of economic, social and cultural rights (including those relating to education, job creation, the emancipation of women, the enhancement of human and food security, and the equitable settlement of property disputes).

3. Creation of an institutional framework for the implementation of the national strategy for achieving reconciliation and social cohesion

35. An institutional framework has been established for the implementation of the national strategy for achieving reconciliation and social cohesion. It provides a platform for cooperation among representatives of national and local authorities, national and international non-governmental organizations and the United Nations, among others. The availability of the necessary material and human resources and the presence of the required political will have been identified as prerequisites for the strategy's successful implementation. The efforts devoted to this initiative by the Ivorian authorities can be leveraged by the advocacy and support of the international community.

4. The role of the National Programme for Social Cohesion in the implementation of the national strategy for achieving reconciliation and social cohesion

36. The National Programme for Social Cohesion has a direct role to play in the reparation process and serves as the executive secretariat for the National Commission on Reconciliation and Compensation for Victims (pursuant to Decree No. 2015-174 of 24 March 2015). In that capacity, it has worked to further the implementation of the pilot phase of the process for providing redress to crisis victims in Côte d'Ivoire. A committee has been created to coordinate and monitor the reparation process under the supervision of the Commission. This committee is composed of representatives of the National Commission on Reconciliation and Compensation for Victims, the National Programme for Social Cohesion and six ministries. In late June 2015, the committee met and approved the list of victims prepared by the National Commission of Inquiry to be used as a basis for the pilot phase of the reparation process.

37. The Independent Expert sees a continuing need to find the best possible way of aligning this pilot phase with the efforts being undertaken by the National Commission on Reconciliation and Compensation for Victims and the National Programme for Social Cohesion with a view to establishing an appropriate framework for the compensation of all the victims.

5. Structural ties between the National Commission on Reconciliation and Compensation for Victims and the National Programme for Social Cohesion

38. The Independent Expert wishes to draw attention to the difficulty involved in coordinating the important roles performed in relation to reparation by the National Commission on Reconciliation and Compensation for Victims and the National Programme for Social Cohesion because the instruments that define those roles are unclear and open to divergent interpretations on the part of the two institutions.

39. The Independent Expert strongly recommends that the public authorities clarify this situation as soon as possible in order to expedite the reparation process, which is one of the pillars of national reconciliation.

40. The Independent Expert also calls upon the international community to provide financial support for victim compensation funds and to continue to play an active role in building the human and material operating capacity of the National Commission on Reconciliation and Compensation for Victims and the National Programme for Social Cohesion.

IV. The human rights situation

A. Human rights in the context of the presidential elections

41. Clearly, the elections could not have been conducted so successfully in the absence of a basic respect for human rights on the part of the Ivorian authorities. This stance has paved the way for a constructive dialogue and has, in large measure, engendered a social environment that is conducive to the exercise of a number of fundamental political rights, such as the rights to freedom of expression and freedom of peaceful assembly. As observed by the Independent Expert in a press release dated 12 October 2015, at the start of the election campaign, Côte d'Ivoire needs peace and democracy in order to pursue its economic and human development processes and to reclaim its position as an open, inclusive country. The Independent Expert would also add that respect for human rights is the cornerstone for any sustainable development process.

42. It is nonetheless advisable to draw a distinction between two periods: the election campaign itself and the period that preceded that campaign.

1. During the election campaign

43. During the election campaign itself, the Human Rights Division of UNOCI noted that public demonstrations and meetings held by the opposition proceeded peacefully and as planned. Peaceful, public demonstrations and meetings are the outcome of the combined efforts of two main groups: on the one hand, there are the people who participate in demonstrations or assemblies, who must adhere to the applicable laws and regulations and exercise self-discipline in order to avoid any outbursts that could constitute a threat to public safety, and, on the other hand, there are the public authorities, who should safeguard people's right to demonstrate and to participate in peaceful public assemblies and should provide appropriate instructions to avert any outbreak of violence. Peaceful public assemblies and demonstrations are a hallmark of maturity on the part of the population and of a responsible attitude and adherence to international standards on the part of the authorities.

2. Prior to the election campaign

44. In contrast, during the pre-campaign period, the UNOCI Human Rights Division, which is responsible for monitoring the human rights situation in the country on an ongoing basis, observed that some opposition demonstrations had been banned and that a number of people, some of whom belonged to the opposition, had been arrested. The Independent Expert brought these incidents up with the authorities and inquired about the reasons behind them. The authorities responded that there had been violent demonstrations and that a call for street protests had been made following the publication of the list of presidential candidates. Disturbances had broken out in the Department of Gagnoa, and specifically in Logouata, in the wake of demonstrations organized for 10 September by the National Youth Coalition for Change.

45. Demonstrators were protesting the candidacy of the incumbent, President Alassane Ouattara, whose Ivorian nationality had been called into doubt in some quarters on the basis of the concept of "ivoirité" (Ivorian identity). The disturbances led to the death of three persons and caused serious material damage, with properties being burned down in Bayota, Logouata and Ouragahio. Unrest had also broken out in Bonoua and Youpougon, a district of Abidjan. These incidents had put local and national authorities on the alert, especially given what had happened in the past, the imminent security risks that they posed and the fear that they could threaten the country's still fragile social cohesiveness.

3. The legal regime governing the organization of peaceful demonstrations and public assemblies

46. The Independent Expert has researched the legal regime in Côte d'Ivoire that governs the right to organize public assemblies and demonstrations. Under that regime, assemblies and demonstrations must be announced in advance but the organizers are not required to obtain authorization. If the public authorities determine that an assembly or demonstration could pose a threat to law and order, they may decide to prohibit it. The system is thus a more liberal one than the system whereby prior authorization must be obtained by the organizers of public assemblies or demonstrations. The Independent Expert notes that the authorities have both the right and the duty to ensure the safety of the country's citizens (both those who are demonstrating and those who are not).

4. International standards applying to public assemblies and peaceful demonstrations and to arrests

47. The Independent Expert wishes to remind the authorities that the power to prohibit peaceful demonstrations and assemblies should only be used in exceptional circumstances under international law. More specifically, freedom of expression through assemblies and demonstrations is a fundamental human right whose enjoyment may not be restricted except under exceptional circumstances that are in full conformity with the principles of legality, necessity and proportionality. It is important, under all circumstances, to avoid banning public assemblies or demonstrations based on an overly broad interpretation of what constitutes a threat to law and order. In addition, any such ban should be made known in writing as soon as possible, along with the reasons for it. The practice of informing the population of the reasons for such a ban is conducive to the type of transparency which should characterize decisions taken by public authorities, as well as being instructive and contributing to civic engagement. This also makes it possible, where appropriate, for citizens to exercise their right to have recourse to the legal, administrative and judicial remedies open to them in as effective a manner as possible.

48. Training to raise awareness about the international standards governing the right to hold public assemblies and demonstrations should be provided to members of law enforcement agencies, who should also receive reminders regarding these standards from superiors on a regular basis. By the same token, the authorities and politicians whose supporters participate in such assemblies and demonstrations should ensure that citizens are aware of their rights and of the extent to which those rights may legally and legitimately be restricted.

49. It is understandable that the trauma experienced by the whole of Ivorian society as a result of the violence that reigned over the past two decades may at times engender an excessive degree of precaution and a tendency to exaggerate potential threats. This may, in its turn, prompt the authorities to prohibit certain assemblies or demonstrations without due cause. The consolidation of the rule of law, which is a goal close to the hearts of all Ivorians, will necessarily entail the adoption of a more temperate attitude by the public authorities and redoubled efforts to uphold the civic and political rights of all persons.

50. Arrests should be made only when they are absolutely necessary to avert serious, imminent threats of danger and in strict observance of the persons' rights, which include the right to be held in a known location and for the persons' presence there to be duly registered, the right to have access to a lawyer without delay, the right to be promptly brought before a judge and the right to be tried within a reasonable period of time in strict accordance with all due process guarantees. Any and all arrests, regardless of the identity of the arresting authority (police, gendarmerie or the National Surveillance Directorate (DST)), should be conducted in a way that upholds people's rights and should be closely overseen by public prosecutors and judges within the bounds of their personal, material and territorial jurisdictions. The time limits applying to the duration of police custody should be scrupulously observed under the constant and vigilant supervision of the public prosecutor's office. Persons who are convicted and given a custodial sentence by a court of law should be transferred to a prison rather than being held in police or DST custody.

B. Prison conditions

1. The worrisome situation in correctional facilities

51. The situation in the prisons of Côte d'Ivoire remains a cause of concern, and the Ivorian authorities are well aware of this. The current state of affairs is the outcome, among other factors, of the prolonged period during which the country was plagued by violent conflict — conflict that inevitably had an impact on public infrastructure, including the country's prisons. The Ivorian authorities are aware that prison conditions are poor, and their willingness to rectify this situation with all due haste deserves the firm support of the international community.

52. The Independent Expert wishes to reiterate the observations and recommendations concerning the country's prisons that he made in his preceding report (A/HRC/29/49). He would also add that the Government must put an end to the tyranny exercised by certain prison bosses over the rest of the prison population. One example is the so-called "Chinaman", who is incarcerated in the Abidjan Detention and Correctional Centre.

53. In this report the Independent Expert would like to place particular emphasis on the situation of minors in conflict with the law. When dealing with juvenile offenders, the vulnerability of these children should be taken into consideration, and they should be given a genuine opportunity for rehabilitation.

2. Situation of minors in conflict with the law

54. The juvenile justice system in Côte d'Ivoire suffers from serious shortcomings that have not escaped the attention of the authorities. In order to rectify these problems, a well-designed reform programme and sufficient material and human resources will have to be put in place. In 2012, a national policy for the protection of all children was adopted and, with support from UNOCI and a number of donors, the steps to be taken to restructure the juvenile justice system have been under discussion since 2013. This restructuring programme will encompass the entire legal framework within which the juvenile justice system operates. More specifically, it includes plans for the creation of legal protection services specifically for juveniles within the court system. Initially, these services will be piloted in two districts of Abidjan, Plateau and Yopougon, and in the cities of Bouaké and Man. The order authorizing the establishment of these services is pending, and it is strongly recommended that it be issued soon.

55. The Ivorian authorities are working to renovate the country's prisons and to build new ones. Since 2013, plans have been put in place for the construction of nine prisons and for the renovation of existing facilities (decision of the Council of Ministers of 25 July 2013). These construction projects should be aligned with international standards regarding the detention of minors. It is regrettable that, in most of the country's prisons, minors subject to a provisional custody order are not held separately from adults.

56. There are only three observation centres for minors in the country. These centres are located in Abidjan, Bouaké and Man.

3. Abidjan Juvenile Observation Centre

57. At the time that the Independent Expert visited the Abidjan Juvenile Observation Centre, it housed 61 children in very unhealthful conditions. This facility has the regrettable distinction of being located within the Abidjan Detention and Correctional Centre and is therefore within a prison environment that is totally at odds with its

purpose, which is to help judges gain an idea of these troubled minors' personalities before they rule on their cases. While it is true that there is a wall that separates this observation centre from the prison itself, in practice this separation is often illusory. In addition, the Abidjan Juvenile Observation Centre does not have medical facilities of its own, so minors who are ill are cared for in the prison infirmary; in some cases they stay there overnight, with all the safety issues and threats to their moral integrity which that entails.

58. This situation is on the point of being rectified thanks to the relocation of the Abidjan Juvenile Observation Centre. The minors housed in the facility located within the Abidjan Detention and Correctional Centre are to be rehomed in the new Observation Centre shortly. Throughout the country, the utmost effort should be made to separate minors, whether they are in temporary detention or have been convicted, from adult prisoners.

4. The specific situation in the Dabou Centre

59. Another matter that should be forcefully addressed is the situation of the children who are referred to as "germs" (*microbes*) in the Dabou Centre. The Independent Expert feels called upon to reiterate his categorical condemnation of the use of this term to stigmatize children in conflict with the law (see A/HRC/29/49, para. 17). At the time of the Independent Expert's visit to Côte d'Ivoire, the Dabou Centre housed some 60 children who are considered to pose a danger to the community because of the acts of violence that they have committed in the past and the risk that they may commit similar acts in the future. They are themselves sometimes attacked by members of the public in retaliation for acts of violence which they have or are suspected of having committed.

60. The Independent Expert has been assured that these children are not incarcerated, since they have gone to the Centre of their own free will or have been taken there by family members and are free to leave whenever they wish. The Centre is run by the Unit for Coordination, Follow-up and Reintegration, which took the place of the Disarmament, Demobilization and Reintegration Authority. The authorities emphasized that the Centre's purpose is to rehabilitate the children who are housed there.

61. The Independent Expert wishes to make the following observations in this regard. It is imperative that these children be protected from attacks by members of the public, which may be motivated by fear or by a desire for revenge. Moreover, the determination of the extent to which they pose a danger to society, any restriction of their freedom of movement for any appreciable amount of time and any type of custodial arrangement should be overseen by the justice system. Children in conflict with the law should be provided with suitable rehabilitative care that is in keeping with their young age and in accordance with the law. The institutions entrusted with providing that care should be closely supervised by the justice system.

62. Special attention should be devoted to the children known as "talibés" who have recently begun to enter the country across its northern borders. These children usually come from very poor families who entrust them to religious teachers. However, rather than ensuring their education, some of these teachers subject them to the most disgraceful forms of exploitation and force them to beg on their behalf.

C. Child protection policy

63. Child protection systems should also have a preventive component. The authorities should not wait until a child begins to engage in misconduct before taking

him or her in hand. The Government of Côte d'Ivoire has shown itself to be aware of this and has been working to make school attendance compulsory and free of charge for children up to the age of 16. The national social protection strategy that was adopted in 2013, which provides for universal social security coverage, is expected to benefit all vulnerable sectors of the population, including children (see A/HRC/29/49, para. 26).

64. A bill on trafficking in children has been submitted to the National Assembly. The Independent Expert recommends that this opportunity be taken to address the issue of trafficking in persons in general, including, of course, the trafficking of children and women.

65. A bill on the protection of children who have been deprived of familly support has been adopted. This legislation, which provides for assistance in such areas as health and education, covers two categories of children. The first category, Wards of the Nation, includes orphans of government functionaries and children orphaned in natural disasters. This category is of symbolic importance and its existence can be expected to strengthen the nation's social cohesion, which is why the National Commission on Reconciliation and Compensation for Victims is involved in drawing up this list of child beneficiaries. The second category, Wards of the State, is essentially composed of abandoned children. While the Independent Expert is aware that there may be certain understandable considerations underlying the creation of these categories, the fact remains that all children should benefit from sufficient protection and that the quality of that protection should only differ to the extent that this is dictated by the principle of the best interests of the child as set forth in the Convention on the Rights of the Child.

66. A number of private-sector initiatives to afford protection to children who lack the support of their families are under way. In order to ensure that these initiatives stay on track, however, the Ministry of Solidarity, the Family, and Women's and Children's Affairs requires that all associations that intend to work with orphans must first obtain a permit. In addition, the Ministry issues a list of the funding provided to these associations by donors.

67. Another noteworthy initiative relating to children has been the establishment of a children's parliament. This institution is designed to introduce young people to the workings of a democratic system and has already held a number of successful sessions.

D. The advancement of women and efforts to combat discrimination against them

1. Parity

68. Efforts to promote the advancement of women and to introduce a social policy that covers gender issues are moving forward. The Ministry of Solidarity, the Family, and Women's and Children's Affairs has drafted a bill dealing with equality of opportunity for women to take up public office. Clearly, once it is passed, this legislation should be accompanied by a sustained effort to make all members of society aware of the need to combat discrimination against women in all its various forms. The fact that this will require continuous efforts over the long term underscores the importance of setting up a gender observatory.

2. Student pregnancies and early marriage

69. Although the number of pregnancies among students has declined, the authorities continue to combat this problem, and awareness-raising activities have been

undertaken in the schools. Early marriages are also a concern. The Government has enlisted the aid of non-governmental organizations in addressing this problem on the basis of a local grass-roots approach to dealing with the families concerned.

3. Sexual violence against women

70. The Ivorian authorities' records point to a decrease in the number of acts of sexual violence directed against women. It would be desirable for these quantitative findings to be backed up by statistics that have been systematically compiled using scientific methods in order to provide greater guidance in orienting the society's response to this problem. The authorities have found that women are more willing than before to report acts of sexual violence committed against them. Increased awareness of this problem and the mechanisms that have been put in place to combat it appear to be gradually bearing fruit. One of these mechanisms is the Legal Affairs Directorate of the Ministry of Solidarity, the Family, and Women's and Children's Affairs. That office assists women victims of sexual violence and follows through on the legal action that they bring before the courts. The Ministry is also regularly called upon to take action in cases of harassment in the workplace.

71. The fact that the assize courts held no sessions at all between 2002 and 2014 and have held them only irregularly since then has heightened the degree of impunity for the crime of rape which exists in the country and has led to a substantial backlog of rape cases. Given this situation, judicial authorities have been obliged to downgrade these crimes by categorizing them as indecent assault instead of rape so that they can be tried in courts of first instance. This also means, however, that convicted persons are subject to lighter sentences than they would have been if they had been tried by an assize court.

72. The Independent Expert reiterates his concern about the fact that article 354 of the Criminal Code establishes the penalties for rape but does not provide a definition of the offence. The absence of such a definition is not conducive to a common understanding on the part of judicial officials of what constitutes rape and opens the way for varying interpretations of the offence.

E. The National Human Rights Commission of Côte d'Ivoire

1. The Commission's role during the election campaign

73. The National Human Rights Commission of Côte d'Ivoire played an active role during the presidential election campaign and on voting day. In the run-up to the elections, it monitored the registration process, and the comments that it conveyed to the Independent Electoral Commission contributed to the decision to extend the deadline so that the lists would be as inclusive as possible. The National Human Rights Commission also interviewed the candidates and informed the Independent Electoral Commission of their grievances. During the voting, it stationed observers at the polls in coordination with civil society associations and later issued a report on the elections.

2. Publication of the Commission's annual reports and other activities

74. On 25 September 2015, the National Human Rights Commission of Côte d'Ivoire submitted its first annual report, which covered the year 2014, to the President. That report was then promptly made public, along with the annual report for 2013. This significant achievement deserves mention. The Independent Expert wishes to underscore the importance of issuing annual reports on the human rights situation in the country on a regular basis. It is also important to publish regular reports on

sectoral issues that merit further examination. These reports need to be properly publicized and brought to the attention of civil society and the public authorities, particularly legislators and the staff of offices responsible for security matters and the administration of justice.

75. Cooperation between the National Human Rights Commission of Côte d'Ivoire and the UNOCI Human Rights Division continues to bear fruit. A strategic five-year plan for the fulfilment of the Commission's mandate was adopted in October along with a plan of action for the implementation of the recommendations made during the universal periodic review and by the treaty bodies. The Commission continues to partner with civil society in connection with the national human rights observatory and in other areas. Through its Subcommission on Detention, it also continues to devote special attention to the situation of incarcerated persons and to the improvement of their treatment.

76. The Commission has succeeded in increasing the number of regional offices. It is nonetheless true, however, that only 15 of the planned 31 offices have as yet been set up, and these regional commissions are faced with severe shortages of resources. More generally, the Commission is in need of more resources in order for it to be able to organize more human rights training activities in the various public sectors where such training is required.

3. Enhancement of the status of the Commission

77. In his inaugural address of 4 November 2015, the President of Côte d'Ivoire announced that he intended to initiate the process of amending the Constitution. The Independent Expert applauds this initiative insofar as it will help to consolidate the rule of law. A constitutional reform process also offers a valuable opportunity to enhance the status of the National Human Rights Commission of Côte d'Ivoire. The Commission would stand to gain from being recognized as a constitutional institution entrusted with monitoring the observance of human rights in the country and working with the authorities and civil society to promote human rights. Its institutional and financial independence should also be consolidated so that it may be brought more fully into line with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).

78. The Independent Expert wishes to emphasize that the National Human Rights Commission of Côte d'Ivoire is an extremely important institution for the promotion of human rights in the country. It has a crucial role to play in the proactive prevention of human rights violations and in dealing with those that are committed with all due diligence. It also performs an essential function by providing the authorities with sound advisory assistance in connection with the strategy to be used for promoting human rights. The Commission is, in addition, intended to serve as an important channel for effective communication and cooperation with Ivorian civil society, United Nations bodies and other national and regional organizations working in the field of human rights.

79. The Independent Expert urges the officials of the National Human Rights Commission of Côte d'Ivoire to take a bolder stand against the human rights violations committed in their country. He also calls upon the Government of Côte d'Ivoire to raise its officials' awareness of the importance of the role that this institution could play in promoting human rights and to provide it with the material and human resources that it needs in order to fulfil its essential functions.

V. Judicial and constitutional reform

80. Deliberations concerning judicial reforms are proceeding, with possible amendments to the regulations currently governing the assize courts being debated. Some potential changes being mentioned include alterations in their structure and composition, along with the possibility of having an appeal review procedure. The Independent Expert is pleased to note that judges have been involved in the discussions on reforms in the justice system.

81. Some texts are still being awaited with some impatience, and the Government is urged to make an earnest effort to finalize them and have them promulgated without delay. There are three particularly important texts of this nature: (a) a text containing the wording of the definition of "victim", which is necessary in order to make an actual start on the victim compensation phase of the process; (b) a text on victim and witness protection, which is needed in order to facilitate the trials of persons suspected of being responsible for the violence of past years and further the reconciliation process; and (c) the text of the implementing regulations for the law on the protection of human rights defenders.

82. In his inaugural address, the President announced that the Constitution of Côte d'Ivoire was to be reformed without delay. The Independent Expert applauds this initiative, which could strengthen the rule of law by introducing further provisions to reinforce the country's democracy. It is also imperative to remove provisions from the Constitution that have the potential for deepening divisions within Ivorian society, such as article 35, which establishes the concept of "Ivoirité". It is also important to ensure that the powers of the different branches of government are balanced and that the judiciary is and remains independent. This reform effort could also provide an opportunity to establish the status of some bodies, such as the National Human Rights Commission of Côte d'Ivoire, as constitutional institutions and to strengthen their structures and consolidate their independence.

VI. The United Nations Operation in Côte d'Ivoire

83. The Independent Expert wishes to draw attention to the important role played by the United Nations Operation in Côte d'Ivoire (UNOCI) in providing support for the smooth running of the presidential elections in accordance with international standards. He also applauds its staff's sustained efforts to increase security and strengthen respect for human rights in Côte d'Ivoire. It is gratifying to see that the Security Council, by its resolution 2226 (2015), extended the mandate of UNOCI until 30 June 2016 while it proceeds to downsize. The Independent Expert would like to reiterate the recommendation that he made in his preceding report (see A/HRC/29/49, para. 104), since he believes that the withdrawal of UNOCI from Côte d'Ivoire should be conducted in a manner that will enable the country to maintain the ground it has gained in terms of economic and human development and to continue confidently along that path.

VII. Conclusions and recommendations

A. Conclusions

84. In the opinion of most of the national and international observers who were present at the elections, Côte d'Ivoire succeeded in holding presidential elections that were not marred by violence and that conformed to international standards.

As a result, for the first time in two decades, the country is capable of dealing with the challenges that it must overcome in order to further its economic and human development. The main such challenges are to consolidate the national reconciliation process on the basis of an even-handed administration of justice and to maintain peace and security. The objective of the observations and recommendations made by the Independent Expert, the Human Rights Council in the course of the universal periodic review and the Human Rights Committee of the United Nations is to accompany the country along that path. This necessarily entails the country's fulfilment of its international human rights commitments. The recent adoption of a strategy for monitoring the action taken pursuant to those recommendations is an encouraging sign, and the progress made and the results achieved under that strategy will be followed with interest.

B. Recommendations

85. The Independent Expert recommends that the Ivorian authorities take the following actions in order to strengthen the rule of law:

(a) Continue with the national dialogue with a view to including all political schools of thought as fully as possible in the democratic process;

(b) Build the capacity of the Independent Electoral Commission so that it is in the best possible position to organize the forthcoming legislative and local elections;

(c) Take advantage of the planned constitutional reform effort to consolidate the rule of law by, inter alia, strengthening the independence of the judiciary and raising the National Human Rights Commission of Côte d'Ivoire to the rank of an independent constitutional institution endowed with the necessary means to fulfil its mission.

86. The Independent Expert recommends that the Ivorian authorities take the following actions in order to reinforce the reconciliation process:

(a) Draw all the useful conclusions possible from the presidential election results and utilize them to consolidate the reconciliation process;

(b) Make the report and recommendations of the Dialogue, Truth and Reconciliation Commission public as a means of reinforcing the reconciliation process;

(c) Continue to strike a balance in terms of the prosecution of members of the two camps who are believed to have committed human rights violations with a view to providing the most effective means possible of healing the wounds caused by the series of crises that have occurred in the country since 19 September 2002;

(d) Continue to build the capacity of the justice system so that the investigations can proceed at a good pace and trials can take place within a reasonable time period;

(e) Build the material and human capacity of the office in charge of conducting exhumations;

(f) Adopt and promulgate a law which defines the concept of a victim of the post-election violence and the concept of redress and a law on witness and victim protection;

(g) Clarify how the roles of the National Commission on Reconciliation and Compensation for Victims and of the National Programme for Social

Cohesion relate to one another in order to smooth the way for the provision of redress;

(h) Build a bridge between the pilot phase of the reparation process and the overall strategy for providing victims with redress.

87. The Independent Expert recommends that the Ivorian authorities take the following actions in order to improve prison conditions:

(a) Act in accordance with international standards governing arrests and custody. Persons taken into custody should be held in a known, legally registered location and should enjoy all their rights (including the right to have the assistance of a lawyer and the right to be brought promptly before a judge);

(b) Proceed with prison reform efforts with all due diligence;

(c) Promptly put an end, by lawful means, to the tyranny exercised by certain prison bosses over the rest of the prison population in the Abidjan Detention and Correctional Centre;

(d) Relocate the Juvenile Observation Centre that is currently sited within the Abidjan Detention and Correctional Centre as quickly as possible;

(e) Take steps to ensure that all minors who are in custody are in all cases held separately from adult prisoners, regardless of the stage of the legal proceedings concerned;

(f) Take steps to ensure, under the supervision of the justice system, that the rights of the children housed in the Dabou Centre are upheld;

(g) Protect the children known as "talibés" from all forms of exploitation.

88. The Independent Expert recommends that the Ivorian authorities take the following actions with respect to the advancement of women:

(a) Pass the bill designed to provide women with equal opportunities to take up public office and promulgate that law without delay;

(b) Amend the Code of Criminal Procedure and the Criminal Code to include a clear definition of rape that specifies all of the constituent elements of the offence and continue to combat all forms of violence against women by, inter alia, working to heighten awareness of this problem and to ensure that perpetrators of rape and violence against women do not go unpunished;

(c) Continue to address the problem of early pregnancies among students and early marriage;

(d) Continue to conduct campaigns to heighten awareness of discrimination and violence against women.

89. The Independent Expert recommends that the international community take the following actions:

(a) Continue to assist Côte d'Ivoire to consolidate peace and its national reconciliation process;

(b) Assist Côte d'Ivoire to build the capacity of its justice system and to upgrade its correctional facilities, particularly its custodial facilities and facilities for the rehabilitation of minors;

(c) Assist Côte d'Ivoire to protect children and promote the advancement of women;

(d) Contribute to funds to be used to provide redress to victims of post-election crises.

90. The Independent Expert wishes to reaffirm the importance of maintaining the UNOCI mission until the achievements of Côte d'Ivoire in terms of security and progress towards greater respect for human rights are properly consolidated.